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FM AMEMBASSY DAKAR
TO RUEHC/SECSTATE WASHDC PRIORITY 9950
INFO RUEHZK/ECOWAS COLLECTIVE PRIORITY
RUEAWJA/DEPT OF JUSTICE WASHDC PRIORITY
RUEATRS/DEPT OF TREASURY WASHDC
RHEHNSC/NSC WASHDC
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E.O. 12958: N/A

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SUBJECT: RESULTS OF FINANCIAL SYSTEMS ASSESSMENT TEAM VISIT TO
SENEGAL (FIRST OF TWO CABLES)

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NOTE: This cable is Part I of two-part report. Part II to be sent
septel.

SUMMARY

1. (SBU) This cable is largely derived from the initial report by an interagency Financial System Assessment Team (FSAT), which conducted an onsite visit to Senegal November 5-9, 2007. The team met with a wide array of government and private sector entities in Senegal and came away with a nuanced understanding of the strengths and weakness throughout Senegal's financial system with regards to combating money laundering and terrorist financing. Senegal has a comprehensive anti-money laundering (AML) framework, but there are components which could benefit from additional training to improve implementation. There are significant gaps in countering potential financing of terrorism (CFT), including the lack of a terrorism financing law. There is particular concern with respect to judges and prosecutors, who are perceived as lacking an understanding of AML laws or of related investigative requirements. For two main reasons, Senegal is uniquely placed in West Africa to engage on AML and CFT. First, it is a leader within both the West African Economic and Monetary Union (WAEMU), which comprises eight countries with a shared currency and common central bank. Second, Senegal has established a functioning financial intelligence unit (FIU), the CENTIF. The authorities and agencies with whom the FSAT spoke appeared to be motivated and organizationally prepared to make necessary changes to enhance its CFT regime, although resources constraints, and perhaps high-level political will, could restrict these efforts.

LEGAL FRAMEWORK AND SENEGAL'S UNIQUE ROLE

2. (U) A Financial System Assessment Team (FSAT) consisting of Gary Novis (State S/CT-Head of Delegation), Valerie Silensky (State INL-Deputy), Suzanne Hayden (Department of Justice, Asset Forfeiture and Money Laundering Section), Lionel M. Peres (Federal Deposit Insurance Corporation), Mark Meinke (FBI -Terrorist Finance Operations Section), Heather Moye (Treasury - Financial Crimes Enforcement Network), and Mark Kellest (Department of Homeland

Security-Immigration and Customs Enforcement) conducted an onsite visit to Senegal November 5-9, 2007. The team met with a wide array of government and private sector entities in Senegal including: the Customs Department and Port of Dakar, the Central Bank for WAEMU countries and for Senegal, Senegal's Financial Intelligence Unit -- the Cellule Nationale de Traitement des Informations Financiers (CENTIF), the Professional Bankers Association of Senegal, the Anticorruption Commission, the Civil Forum (which is the local representative of Transparency International), the Tax Department, the Inspector General Office, the Ministry of Interior, the Ministry of Finance, the Senegal office of the UNODC, Citigroup, the Ministry of Justice, and the Senegalese Housing Bank.

¶3. (U) In Senegal, the AML/CFT framework and regulations must acknowledge the unique economic and legal arrangement of the West African Economic and Monetary Union (WAEMU), which includes Senegal, Burkina Faso, Niger, Mali, Benin, Guinea-Bissau, Cote d'Ivoire and Togo, as well as Senegal's role within the Union. There is a single central bank known as the Banque Centrale des Etats de l'Afrique de l'Ouest/Central Bank of West African States (BCEAO), a single currency (the CFA franc) and a single monetary policy. Laws governing monetary and economic policy are passed by this body and binding on all members, who are required to submit and pass implementing legislation through national legislative action. There is no latitude to amend the law for local considerations.

¶4. (U) Senegal has traditionally taken a leading role in the sub-region on financial management derived from its strategic location and relatively sophisticated institutions. Senegal was the first country to pass enabling legislation for the 2004 WAEMU Anti-Money Laundering Uniform Law (No. 2004-09), the "Uniform Law." However, the WAEMU legislation, although fairly comprehensive, does not meet the international standard (set by the Financial Action Task Force) with respect to AML compliance for non-bank financial sectors and politically exposed persons.

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¶5. (U) As Senegal's AML law is a BCEAO common law, there is little latitude to tailor it to Senegal. Regulations tailored to Senegal's risk profile could be implemented, but implementing regulations are rarely customized. However, Senegal takes an "all crimes" approach to enacting the Uniform Law and pursuing money laundering. Self-launderers may be prosecuted and it is not necessary to have a conviction for the predicate offense. Intent may be inferred from objective factual circumstances. Criminal liability applies to all legal persons as well as natural persons.

¶6. (SBU) Although Senegal has not passed a CFT law, the penal code was amended in March 2007 to incorporate the United Nations Security Council Resolutions (UNSCRs) requirements for terrorist financing. In July 2007, the WAEMU released guidance on terrorist financing for the sub-region: Directive No. 04/2007/CM/UEMOA "Relative to the Fight Against Terrorist Financing Among WAEMU Member States" obliging member states to pass domestic CFT legislation. Senegalese authorities will likely present WAEMU CFT legislation to the National Assembly for approval in 2008.

UNSCR 1267 COMPLIANCE

¶7. (SBU) The Central Bank, WAEMU, CENTIF, and the U.S. Embassy distribute the UN 1267 Sanctions Committee lists to financial institutions. Citigroup and BHS confirmed that they receive designations from the Central Bank. Senegalese institutions have not yet identified any assets related to the 1267 consolidated list. The BHS bank also receives from the CENTIF the U.S.-generated lists distributed pursuant to Executive Order 13224, but it is unclear whether every bank does.

COMMON CHALLENGES

¶8. (SBU) There was near-unanimity among all entities regarding the major issues and challenges Senegal faces. Officials describe Senegal, and West Africa in general, as "weak links" in the international efforts to combat money laundering. Officials acknowledge a lack of the investigative skills needed for effective

AML casework. Money is moved in and out of the country in a variety of methods and with increasing degrees of sophistication, making it very difficult to detect money laundering. Representatives from the Inspector General's office described some of these, including complex transactions in the formal banking system, cash couriers, vehicle imports, trade-based money laundering, hawala or similar informal transfers, and real estate schemes. Officials predict that money laundering in Senegal will rapidly become more complex, such as schemes using untraceable phone codes. Senegal lacks the expertise to address more complex problems.

¶9. (SBU) Senegal's strategic location, relatively porous borders, and a lack of export enforcement make it a possible transshipment point for criminal organizations looking to export all types of contraband throughout Africa, Europe, and the Middle East. The United Nations Office of Drug Control (UNODC) expressed particular concern regarding Senegal vis-a-vis the transit of goods, money, and people from Cap Vert, Guinea-Bissau, and Gambia, as well as from the Sahel region: Mauritania, Niger, and Mali. The steady migration that takes place throughout the Sahel exacerbates vulnerabilities.

¶10. (SBU) A primary threat appears to be the relatively recent shift in the flow of contraband and illicit proceeds in the form of bulk cash through Senegal and on to a multitude of destinations throughout Europe, Asia, and the Americas. WAEMU states enforce common external tariffs, but allow the free flow of goods and citizens among member countries. Senegal is also a member of the Economic Community of West African States (ECOWAS) which offers member states free trade zone and common market system. Senegal has free trade agreements with Libya and Mauritania. The growing narcotics trafficking through Guinea-Bissau on its southern border is also a particular concern for Senegal.

¶11. (SBU) According to knowledgeable Senegalese officials, Dakar and the sub-region have become a major distribution and logistical hub for international drug smuggling. UNODC research indicates that

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nearly half of Latin American drugs passing through West Africa are re-exported to Europe. The UNODC noted that recently two Latin American citizens were arrested with 500,000 USD and 500,000 euro in their possession, and were also linked to unexplained cash flows between Senegal and Pakistan. The UNODC is concerned that a portion of the proceeds were used to support terrorist organizations, perhaps including the FARC or other groups. South American and European senior drug traffickers may also be establishing bases in Senegal where drug proceeds may be mixing with other investments into Dakar's fast-growing real estate market. There is also concern that traffickers are establishing front companies in the region.

¶12. (SBU) There was broad agreement that Senegal's real estate sector is a potential point of access for individuals to launder the proceeds of crime, including corruption. The FATF-style regional body to which Senegal belongs, the Inter-Governmental Action Group against Money Laundering and Terrorism Financing in West Africa (GIABA), which is an agency of the sixteen member country Economic Community of West African States (ECOWAS) has noted this vulnerability. The Senegalese Tax Authority advised that real estate schemes incorporating questionable proceeds transferred into Senegal through the purchase of property were prevalent. Lebanese, many of them second generation residents, control much of Senegal's real estate sector. There are indications that significant funds are flowing into Dakar's real estate market that are tied to the preparations for the March 2008 Organization of Islamic States summit.

SPECIFIC CHALLENGES

¶13. (SBU) Particular challenges identified by the FSAT include Senegal's mostly cash-based economy, coupled with the depth, breadth, and prevalence of alternative remittance systems in the informal sector. Since so many transactions are conducted in cash, determining the source and destination of the proceeds is difficult. Alternative remittance systems such as hawala are very common in Senegalese communities, and are also used by other groups residing

in the country, including Middle East and North African nationals, Chinese, Lebanese, Mauritians, Malians, Tuaregs, and perhaps Latin Americans. (Authorities spoke about their concerns that Tuaregs coming from Mali could be implicated in terrorist financing schemes.)

¶14. (SBU) Senegal also has a wide range of informal currency exchange outlets, which are illegal, but largely tolerated by the authorities. Law enforcement entities face universal issues regarding underground banking systems: they are difficult to detect and to disrupt, so authorities are dependent on informants. In one example, Ministry of Interior agents conducted an investigation of an illegal hawala high resulted in the arrest of only one low-level member of the organization; the arrest was based on informant information. The hawala process was not examined as a part of the investigation. The Financial Intelligence Unit, CENTIF, is reportedly working on an overview of alternative remittance systems, which should be a first step toward a reporting and enforcement regime vis-à-vis these entities.

¶15. (SBU) An overarching backdrop to all of this is the issue of corruption - a persistent, acknowledged and, to some extent, accepted problem in Senegal. The culture of corruption pervades throughout the country, from placements in primary schools to a judiciary subject to political influence. According to the nongovernmental organization (NGO) Forum Civil, there is serious lack of commitment or will to fight corruption. While an anticorruption law has been enacted, most people do not know how to recognize corruption in its many forms and are resistant to change, so they accept it. Corruption concerns are also raised by significant recent investments by countries that do not have effective anti-corruption controls, including, Saudi Arabia, Iran, the UAE, Libya, China, and India.

BANKING/REGULATORY FRAMEWORK

¶16. (SBU) On the regulatory side, the Team visited and spoke with representatives from the BCEAO, and two agencies of Senegal's

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Finance Ministry: the Department of Money and Credit and the Office of Assistance of Microfinance and Credit. The Team also spoke with Senegal's Professional Banking and Finance Association (APBEF), Citigroup, and the Senegal Housing Bank (BHS), who are representative of the entities obliged to report Suspicious Transaction Reports (STRs).

¶17. (U) The BCEAO's functions include banking sector supervision in member States. The BCEAO has national representation and a national director in all member countries, including Senegal (representation in Dakar, Kaolack and Ziguinchor). Banks and financial institutions must be authorized and registered in order to operate. This authorization is granted by the Minister of Finance after the BCEAO has examined the application and the WAEMU's Banking Commission (BC) has certified its conformity with applicable laws. In Senegal, the BCEAO supervises 17 banks, is actively chartering two new institutions, and oversees 834 microfinance institutions.

¶18. (SBU) The Banking Commission, (BC), based in Abidjan, is responsible for direct regulation and supervision of WAEMU banks. In addition to inspections, it opines on authorization requests from financial institutions and takes administrative and disciplinary measures. The examination cycle is typically two years; however, banks experiencing financial difficulties are subject to at least semi-annual examinations. The BC's approximately 102 bank examiners have a range of educational and professional backgrounds, including economics, law, accounting, financial analysis, but little specialization or knowledge of AML/CFT standards.

¶19. (U) The BCEAO has developed a training policy that includes AML/CFT for its staff members, and is providing this program through its West African Centre for Banking Studies and Training (COFEB) to Senegalese banks and financial institutions, as well as counterparts from other countries in the sub-region.

¶20. (U) Both banks and the APBEF identified the same

vulnerabilities and challenges within the sector. The first relates to the universal problem of cash transactions in Senegal, and the massive informal sector. In order to more adequately regulate the financial system in Senegal, the BCEAO and the APBEF are attempting to reduce cash transactions through consciousness-raising and encouraging the population to move away from a cash-based society and into the formal financial systems. The second issue is the disparity in AML/CFT training received by the different financial institutions in Senegal.

¶21. (SBU) The FSAT identified two primary vulnerabilities during the assessment review. First, each safety and soundness examination includes a basic procedural review of AML/CFT, however, complete safety and soundness examination should include full AML/CFT examinations. Second, and of particular concern, BCEAO officials maintain that financial institutions are only required to file STRs when a violation of law has occurred. Obligated entities should file STRs when the circumstances regarding a transaction appear suspicious in nature, regardless of perceived actual violation.

¶22. (SBU) As Senegal's AML law is a BCEAO common law, there is little latitude to tailor it to Senegal. Regulations tailored to Senegal's risk profile could be implemented, but implementing regulations are rarely customized. Banks are required to send STRs to the CENTIF, including from wire transfer services such as Western Union, which banks execute. According to Citigroup, which sent a case to CENTIF last year, and BHS, which has filed 30-40 STRs so far this year, the FIU acknowledges when an STR is received; however, the banks do not learn what actions the CENTIF takes or does not take on the reports.

THE DEPARTMENT OF MONEY AND CREDIT

¶23. (SBU) The Ministry of Finance's Department of Money and Credit (DMC) is responsible for monitoring and supervising banks and other financial institutions. Since the creation of the Banking Commission, the role of this DMC has shifted to monitoring the non-bank financial sector. The DMC noted the magnitude of Senegal's informal sector and estimated that only about 5 percent of financial

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activity takes place through formal financial institutions. Because of concerns about possible financial crimes, the DMC is currently conducting a study of the informal financial sector at the behest of CENTIF.

¶24. (SBU) The DMC has authority over currency exchange houses which, under the law, are required to register, submit STRs, and provide periodic reports back to the DMC. Prior to the enactment of the AML Uniform Law, there were approximately two hundred currency exchangers; currently there are less than 50 registered currency exchange entities. DMC representatives acknowledge the problematic existence of unregistered currency exchange houses. Successful law enforcement action has taken place against unregistered currency exchangers, resulting in arrests. However, those arrested have been of relatively low-level employees.

¶25. (SBU) Only two DMC staff members have received any AML training, and with the BEACO guidance on terrorist financing released only in July 2007, no one from the DMC has had training on its provisions. As a result, DMC officials expressed a need for basic AML/CFT training for most of the staff as well as in detecting suspicious transactions, and in conducting AML examinations.

MICROFINANCE SECTOR

¶26. (U) Housed in the Ministry of Finance, the Cellule d'Assistance Technique aux Caisses Populaires d'Epargne et de Credit (AT-CPEC) registers, supervises, controls and investigates the 834 microfinance institutions (MFIs) and their projects, associations, and organizations (including NGOs) that populate the sector and loan money at the microenterprise level.

¶27. (U) The Inspections Division in AT-CPEC handles financial investigations including AML, although all Inspections Division employees were in the field conducting investigations at the time of

the Team's visit. AT-CPEC maintains a database of all MFIs that includes financial information, annual reports and financial statements, names associated with each MFI including donors, targeted sectors, and substantive activities. All organizations, including charitable organizations and NGOs, that aim to have a program with any kind of microfinance assistance, must be licensed and on the registry. This database is accessible by request to donors, the Central Bank, Professional Association of Microfinanciers, the CENTIF, and the Ministry of Finance. When a MFI registers, AT-CPEC conducts due diligence using a guide from the Central Bank, which includes examination of the MFI's identification, financial information, and a basic guide to identifying money laundering. Before granting a license, the inspection team completes a site visit to see the MFI at work and get references from the MFI's operating area. AT-CPEC routinely re-inspects licensed MFIs.

¶28. (SBU) Wary of remittances from overseas to MFIs, AT-CPEC acknowledges AML/CFT vulnerability in this sector. Although it has not found cases of terrorism financing or money laundering within the microfinance sector, AT-CPEC recognizes the potential of the sector to be used as such a vehicle. When AT-CPEC has a suspicion about or finds a problem with an MFI or project, it files an STR or reports its findings to the CENTIF, with whom it has worked for two years.

¶29. (U) AT-CPEC investigators have advanced degrees in economics, accounting, and business; however, the only AML-specific training that they have taken has been through the CENTIF. AT-CPEC needs to better identify and assemble cases and reports, and share its database and information with other government entities (and obtain information from them). As microfinance is by definition small in scale, and the microfinance sector is not normally a component of an AML/CFT regime, AT-CPEC is easily overlooked as an important institution for consideration of assistance.

NOTE: THIS CABLE IS CONTINUED SEPTEL.

SMITH